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7
8 **UNITED STATES DISTRICT COURT**
9 **NORTHERN DISTRICT OF CALIFORNIA**
10 **OAKLAND DIVISION**
11

12 EPIC GAMES, INC.,

13 *Plaintiff, Counter-defendant,*

14 v.

15 APPLE INC.,

16 *Defendant, Counterclaimant.*
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Case No. 4:20-cv-05640-YGR

**DECLARATION OF PATRICK R.
COLSHER IN SUPPORT OF NON-
PARTY SONY INTERACTIVE
ENTERTAINMENT LLC'S RENEWED
ADMINISTRATIVE MOTION TO SEAL
COMPETITIVELY SENSITIVE
INFORMATION**

Judge: Hon. Yvonne Gonzalez Rogers

1 I, Patrick R. Colsher, declare as follows:

2 1. I am an attorney with the law firm of Shearman & Sterling LLP. Shearman &
3 Sterling LLP is counsel to non-party Sony Interactive Entertainment LLC (“SIE”) in connection
4 with this litigation. I am a member in good standing of the Bars of the States of New York and
5 New Jersey. I make this declaration based on personal knowledge and, if called as a witness, I
6 could and would testify competently to the matters set forth herein.

7 2. On May 3, 2021, I learned that documents identified by the parties as trial exhibits
8 were posted to the Box. I accessed the Box and determined that six trial exhibits containing SIE’s
9 confidential information that SIE seeks to seal (DX-3094, DX-3433, DX-3582, DX-3660, DX-
10 4493, and DX-4519) were inadvertently posted to the Box in a folder entitled “Stipulated
11 Exhibits,” along with many other exhibits.

12 3. Upon discovering this, on May 3, 2021, I promptly contacted the court staff to
13 request that these six trial exhibits be removed from the Box, which was done promptly thereafter.

14 4. Since May 3, 2021, I have accessed the Box multiple times each day to assess
15 whether any additional exhibits were posted or removed.

16 5. To the best of my knowledge, the following three documents identified by Apple as
17 trial exhibits have not been posted to the Box: DX-3865, DX-3988, and DX-4425.

18 6. To the best of my knowledge, the following document identified by Apple as a trial
19 exhibit has been posted to the Box only in redacted form with the redactions requested by SIE in
20 its initial motion (Dkt. No. 576): DX-3125. That is, to the best of my knowledge, the information
21 that SIE seeks to keep sealed has never been posted to the Box.

22 7. On May 14, 2021, in preparation for SIE’s renewed motion to seal, I emailed
23 counsel for Apple and Epic to confirm that my understanding as to the posting to Box of these ten
24 exhibits was correct. I also asked if either party opposed the motion. Counsel for Apple and for
25 Epic confirmed that their clients do not oppose the motion. Counsel for Apple confirmed that
26 counsel’s understanding as to what was posted and what was not posted was the same as mine, as
27 described above.

1 8. Attached hereto as Exhibit A is a true and correct copy of a document produced by
2 Epic, bearing bates numbers EPIC_01983020 – EPIC_01983026, which Apple has listed on its
3 trial exhibit list as DX-3660, with proposed redactions identified by Don Sechler as indicated by
4 the red boxes. This document was designated by Epic as “HIGHLY CONFIDENTIAL –
5 ATTORNEYS’ EYES ONLY” pursuant to the governing protective order.

6 9. Attached hereto as Exhibit B is a true and correct copy of a document produced by
7 Epic, bearing bates numbers EPIC_00012102 – EPIC_00012103, which Apple has listed on its
8 trial exhibit list as DX-3865, with proposed redactions identified by Don Sechler as indicated by
9 the red boxes. This document was designated by Epic as “HIGHLY CONFIDENTIAL –
10 ATTORNEYS’ EYES ONLY” pursuant to the governing protective order.

11 10. Attached hereto as Exhibit C is a true and correct copy of a document produced by
12 Epic, bearing bates numbers EPIC_03848245 – EPIC_03848251, which Apple has listed on its
13 trial exhibit list as DX-3988, with proposed redactions identified by Don Sechler as indicated by
14 the red boxes. This document was designated by Epic as “HIGHLY CONFIDENTIAL –
15 ATTORNEYS’ EYES ONLY” pursuant to the governing protective order.

16 11. Attached hereto as Exhibit D is a true and correct copy of a document produced by
17 Epic, bearing bates numbers EPIC_01983157 – EPIC_01983164, which Apple has listed on its
18 trial exhibit list as DX-4425, with proposed redactions identified by Don Sechler as indicated by
19 the red boxes. This document was designated by Epic as “CONFIDENTIAL” pursuant to the
20 governing protective order.

21 12. Attached hereto as Exhibit E is a true and correct copy of a document produced by
22 Epic, bearing bates numbers EPIC_03367885 – EPIC_03367887, which Apple has listed on its
23 trial exhibit list as DX-4493, with proposed redactions identified by Don Sechler as indicated by
24 the red boxes. This document was designated by Epic as “HIGHLY CONFIDENTIAL –
25 ATTORNEYS’ EYES ONLY” pursuant to the governing protective order.

26 13. Attached hereto as Exhibit F is a true and correct copy of a document produced by
27 Epic, bearing bates numbers EPIC_02021466 – EPIC_02021472, which Apple has listed on its
28 trial exhibit list as DX-4519, with proposed redactions identified by Don Sechler as indicated by

1 the red boxes. This document was designated by Epic as “HIGHLY CONFIDENTIAL –
2 ATTORNEYS’ EYES ONLY” pursuant to the governing protective order.

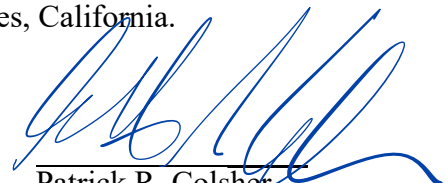
3 14. Attached hereto as Exhibit G is a true and correct copy of a document produced by
4 Epic, bearing bates numbers EPIC_03350282 – EPIC_03350290, which Apple has listed on its
5 trial exhibit list as DX-3094, with proposed redactions identified by Don Sechler as indicated by
6 the red boxes. This document was designated by Epic as “HIGHLY CONFIDENTIAL –
7 ATTORNEYS’ EYES ONLY” pursuant to the governing protective order.

8 15. Attached hereto as Exhibit H is a true and correct copy of a document produced by
9 Epic, bearing bates numbers EPIC_00095573 – EPIC_00095579, which Apple has listed on its
10 trial exhibit list as DX-3125, with proposed redactions identified by Don Sechler as indicated by
11 the red boxes. This document was designated by Epic as “HIGHLY CONFIDENTIAL –
12 ATTORNEYS’ EYES ONLY” pursuant to the governing protective order.

13 16. Attached hereto as Exhibit I is a true and correct copy of a document produced by
14 Epic, bearing bates numbers EPIC_04520401 – EPIC_04520403, which Apple has listed on its
15 trial exhibit list as DX-3433, with proposed redactions identified by Don Sechler as indicated by
16 the red boxes. This document was designated by Epic as “HIGHLY CONFIDENTIAL –
17 ATTORNEYS’ EYES ONLY” pursuant to the governing protective order.

18 17. Attached hereto as Exhibit J is a true and correct copy of a document produced by
19 Epic, bearing bates numbers EPIC_03848141 – EPIC_03848149, which Apple has listed on its
20 trial exhibit list as DX-3582, with proposed redactions identified by Don Sechler as indicated by
21 the red boxes. This document was designated by Epic as “HIGHLY CONFIDENTIAL –
22 ATTORNEYS’ EYES ONLY” pursuant to the governing protective order.

23 18. I declare under penalty of perjury that the foregoing is true and correct and that I
24 executed this declaration on May 14, 2021, in Los Angeles, California.

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27 Patrick R. Colsher
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